Single Bench

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

WRIT PETITION NO. 4662 /2004

PETITIONER : Smt. Gayatri Bhosle, W/o Late Shri R.R.Bhosle aged 45years, R/o Village Karanji, Tahsil Kondagaon District Bastar. (C.G.)

-VERSUS-

RESPONDENTS : 1. State of Chattisgarh, Through: Secretary, Public Health Department, D. K. Building, Raipur.

2. Director, Health Services. Chhattisgarh, Raipur.

3. Chief Medical and Health Officer, Jagdalpur, District, Bastar.

4. Block Medical Officer, Primary Health Center, Kondagaon, Distt. Bastar (C.G.)

P.R. No. 4664/04
Presented by Shri A. Thakur
dated 29.11.04

WRIT UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A SUITABLE WRIT, ORDERS OR DIRECTION.

HIGH COURT OF CHHATTISGARH AT BILASPUR

(40)

W.P. No. 4662 of 2004

Petitioner — Smt. Gayatri Bhosle

Versus

Respondents — State of Chhattisgarh & others

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Shri Prakash Tiwari, Advocate for the petitioner.

Miss Deepali Pandey, Panel Lawyer for the respondents/State.

ORDER

(Passed on this 23rd day of February, 2007)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. The petitioner while working as Multipurpose Health Worker at Sub Health Center, Karanji, Block- Kondagaon was transferred to Sub Health Center, Mandali, Block- Orcha, on the same terms and conditions vide impugned transfer order dated 13.8.2004 (Annexure P/1), within the same district i.e. Baster (Jagdalpur).
2. The petitioner has impugned this transfer order on the ground that his transfer is contrary to the circular dated 20.10.2005, wherein it is provided that if a person has worked for a period of five years in a tribal area, he should be considered for transfer on the other place of his choice. The impugned order does not indicate that the petitioner has been transferred from one district to other district. The transfer of the petitioner is made within the same district i.e. Baster (Jagdalpur).
3. The said circular dated 20.10.2005 is not applicable to the facts of the present case as the impugned transfer order was passed more than a year before the said circular came into force. The circular cannot be given retrospective effect, as it is well settled principle of law.
4. The impugned transfer order has already been given effect to and apart from that, this is not a transfer from one district to other district. Therefore the reliance of the petitioner on the above circular is of no

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relevance. The petitioner may point out the circular dated 20.10.2005 to the employer, if any other transfer is made from the district where he is posted i.e. Baster (Jagdalpur) to other district, for consideration of his case in accordance with the said circular.

5. Be that as it may, with the passage of time this petition has become infructuous as period of transfer is not applicable forever. Even otherwise, it is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. None of these grounds are available to the petitioner.

6. As a result, in view of the above, this petition is dismissed. No order as to costs.

Thakur

Sd/-
Satish K. Agnihotri
Judge